

Jean Rolfs
Clerk of Court

UNITED STATES BANKRUPTCY COURT

OFFICE OF THE CLERK
EASTERN AND WESTERN DISTRICTS OF ARKANSAS
300 WEST 2ND STREET
LITTLE ROCK, ARKANSAS 72201-3777
(501) 918-5500
FAX (501) 918-5520
www.arb.uscourts.gov

DIVISIONAL OFFICE:
Federal Bldg., Room 316
35 E. Mountain St.
Fayetteville, AR 72702-3097
(479) 582-9800
FAX (479) 582-9825

Eastern District Bar Advisory Committee Minutes April 13, 2006

In attendance: Jean Rolfs, Phil Principe, Karen Waldroff, Linda Green, Charles Tucker, David Coop, Charlie Coleman, Joe Kolb, and John Phillips. Warren Dupwe, Ralph Waddell, Eddie Schieffler and Rosalind Mouser were unable to attend.

1. Jean Rolfs reviewed the Summary of Filing Fee Changes which were effective April 9, 2006

Chapter 7 filing fee increased from \$274 to \$299

Chapter 13 filing fee increased from \$189 to \$274

Fee to Convert a Chapter 7 to a Chapter 11 decreased from \$780 to \$755

Fee to Convert a Chapter 13 to a Chapter 11 decreased from \$850 to \$765

All other fees remain unaffected at this time. A complete, updated filing fee schedule can be found on our website at www.arb.uscourts.gov.

2. Jean Rolfs reviewed the Reduced Paperwork Module (RPM).

On December 1, 2005, an amendment of Bankruptcy Rule 9036 went into effect eliminating the requirement for bankruptcy courts to obtain electronic confirmation when an e-notice has been received (many e-mail providers didn't provide this capability). Since this requirement has been removed, we now have the ability to truly notice ECF users via electronic means only. Courts now have the ability to remove registered ECF e-mail recipients from the BNC mailing list, so that user's sole method of receiving notices from the court can now be through ECF e-mail. Although we were given this new ECF module in Version 2.7, we have not activated this module yet in Arkansas.

In effect, the change allows ECF users to stop receiving redundant BNC paper notices. With RPM, the "Notice of the First Meeting of Creditors" will continue to be sent by the BNC through the mail, as well as by e-mail, as this notice provides parties with the debtor(s)' complete social security number. The additional redundant notice provided in paper through the BNC for all other notices would be eliminated. The advantage to the bar is stopping redundant notification on docket entries (currently an e-mail notification is sent with a mailed follow-up paper notification).

During the ECF registration process all ECF users sign a registration form which states, "Registration shall constitute a request and an agreement to receive service of pleadings and other papers electronically pursuant to FRBP 9036, where service of pleadings and other papers is otherwise permitted by first class mail, postage prepaid."

Discussion: Charlie Coleman said he prefers the redundancy of duplicate notice. He brought up Service of Process (Rule 4 or Rule 5) – Proof of Service and wondered if this

complies.

Charlie Coleman asked if Rule 7004 on Adversary Proceeding pertains to the RPM.

Answer: No, RPM should have no effect on method of service of a complaint under Rule 7004. RPM will eliminate redundant paper notices, it does not make any substantive change to any rule. For pleadings other than the complaint that are permitted to be electronically served under Rule 7005, RPM will simply eliminate redundant paper notices from BNC; electronic notices, including the “one free look” at the document, will continue to be sent.

Joe Kolb said he deletes court email notices, reads BNC e-mail notices and prints; looks for responses and modifications.

John Phillips said he relies on paper copies.

Karen Waldroff mentioned that the program could be modified to also send orders to BNC if that would address concerns about the program. Karen is investigating to see if users may "opt out" of RPM.

Charlie Coleman said it would be a problem having to read all ECF notices, since when there is a large bankruptcy case, there can be hundreds of emails sent each day. Thus, the only way to know if the pleading sent relates to his client (without having to look at every email) is by receiving the paper BNC notice.

Decision: Delayed.

3. De-cluttering the docket: Steps taken within the Clerk’s office to unclutter the docket were presented to the Committee.
 - A. No Corrective Entry List: The committee reviewed the items that the Clerk’s office will no longer make corrective entries on in the docket.
 - B. Order Regarding Deficiencies Example: The Committee unanimously preferred the shorter entry on the example provided.

Discussion: Attorneys will click on links and view regardless. Charlie suggested that when the deficient schedule is filed, to say that in the docket text.

Joe Kolb said that on Modified Plans and/or schedules, he looks for modifications – they come with many different titles. Sometimes it is Notice with Modifications, sometimes Modification only, sometimes Notice only. There’s a docket title issue – doesn’t always match attachment.

4. Submitted Agenda Item: Negative Noticing
 - The following was emailed by an attorney to a board member:

“I think negative notice has worked really well in Chapter 7 cases, but for one kind of situation that is troubling.

I have had many cases, especially in Eastern District, where opposing counsel has filed a Response to a Motion for Relief AFTER the time to respond has lapsed and yet it still gets set for hearing. This puts me in limbo. In that situation under the Order and Notice

entered by the Court, I have been ordered to submit an Order granting the Motion for Relief, yet I also have to prepare for a hearing on the matter in order to obtain relief from the stay.

This situation has also caused me trouble with my clients. They are familiar with negative notice and once no Response is timely filed they expect relief immediately. They do not understand why the Order and Notice entered by the Court says they get relief from stay if no Responses are filed by X date, yet I have to go to a hearing on the matter.”

Discussion: No solution.

5. Reinstated Cases

In some chambers, after a case has been reinstated, the pending matters are not reset. The parties are being instructed to re-file their objections/motions, etc., in reinstated cases which will subsequently get set on the docket. This is causing problems with deadlines and double payment of filing fees.

Discussion: If this occurs in the future it will be brought to Chambers’ attention.

6. Orders to Surrender

Joe Kolb said he spoke with Jo-Ann Goldman, and the Ch. 13 Trustees are not issuing these unless requested. He asked if standard language could be added to the confirmation order.

Chuck Tucker asked David Coop to ask the three Trustees to write up and submit sample language to him, then he’ll ask the judges.

7. John Phillips: Problem he is having is with the Ch. 13 Trustees in submitting the name, address and phone number of the person entitled to receive support.

Mostly told by Ch. 13 Trustees to “do the best we can.”

Sometimes unable to get this information.

David Coop explained this is not a requirement of the plan, but the Trustee has an affirmative duty to issue the notice four different times.

David suggested holding up Confirmation until Debtor gives information unless Debtor doesn’t know information or if there is a Court order.

8. David Coop asked if a Ch. 13 Trustee filed an Objection to Discharge, does a filing fee get charged? Answer: Yes.

David Coop then asked if instead, can the Ch. 13 Trustee notify the Clerk’s office that the discharge is inappropriate because of previous filing, or submit an Agreed Order?

Chuck Tucker suggested advising the court why the Debtor is not entitled to a discharge.

9. Chuck Tucker asked the attorneys about the lead time for credit counseling and how the

process is working. John Phillips said he likes Green Path. Chuck said all the providers are up for approval, so he'd like feedback.

10. Chuck Tucker reported that at the end of this year/first of next year, random DOJ Debtor Audits will begin (desk audit).
11. Charlie Coleman said that attorneys have come to rely on ECF being available 24/7. He asked if the clerk's office had someone to check the system on weekends to make sure ECF is functional.

Answer: Yes